

EXHIBIT 31

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KIRKLAND ELLIS

0003/008

0001

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
BLUE CROSS AND BLUE SHIELD OF NEW
JERSEY, INC., et al.,

Plaintiffs,

- against -

PHILIP MORRIS, INCORPORATED, et al.,

Defendants.
-----X

Jury Instructions

98 CV 3287 (JBW)

JACK B. WEINSTEIN,
Senior District Court Judge:

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RICKLAND HILLIS

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003

XIII. Verdict Form

I. Claim One: Common Law Fraud-Subrogation

A. For each defendant, has Empire proven its claim for common law fraud in subrogation, subject to a proven affirmative defense? (If your answer below is "yes" as to any defendant, go to Question B. If your answer is "no" as to all defendants, skip to Claim Two.)

Philip Morris Incorporated	Yes	No	<input checked="" type="checkbox"/>
R.J. Reynolds Tobacco Company	Yes	No	<input checked="" type="checkbox"/>
Brown & Williamson Tobacco Corporation	Yes	No	<input checked="" type="checkbox"/>
British American Tobacco Co., Ltd.	Yes	No	<input checked="" type="checkbox"/>
Lorillard Tobacco Company	Yes	No	<input checked="" type="checkbox"/>
Liggett Group, Inc. and Liggett and Myers, Inc.	Yes	No	<input checked="" type="checkbox"/>

B. If yes as to any defendant, what damages if any has Empire proven (subject to any affirmative defense proven by defendants) from April 29, 1992 to May 1, 2001?

\$ _____

If your answer is that Empire has proved damage proceed to question C. If you answer that Empire has not proved damages skip to claim Two.

C. Indicate only one answer for each defendant as to which you answered "Yes":

	Jointly Liable (check)	Individually liable for the following share of damages from B, above
Philip Morris, Incorporated		\$
R.J. Reynolds Tobacco Company		\$
Brown & Williamson Tobacco Corp.		\$
British American Tobacco Company, Ltd.		\$
Lorillard Tobacco Company		\$
Liggett Group, Inc. and Liggett & Myers, Inc.		\$

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KIRKLAND ELLIS

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Claim Type: Deceptive Business Practices--Direct

For each defendant, has Empire proven its direct claim for deceptive practices under New York General Business Law Section 349 subject to a proven affirmative defense? [If your answer below is "yes" as to any defendant, go to Question B. If your answer is "no" as to all defendants, skip to Claim Three.]

Philip Morris Incorporated	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
R.J. Reynolds Tobacco Company	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Brown & Williamson Tobacco Corporation	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
British American Tobacco Co., Ltd.	Yes <input checked="" type="checkbox"/>	No <input checked="" type="checkbox"/>
Loirel Tobacco Company	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Liggett Group, Inc. and Liggett & Myers, Inc.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

B. If yes as to any defendant, what damages if any has Empire proven (subject to any affirmative defense proven by defendants) from April 29, 1995 to May 1, 2001?

\$ 17,782,702

If your answer is that Empire has proved damages proceed to question C. If you answer that Empire has not proved damages skip to claim Three.

C. Indicate only one answer for each defendant as to which you answered "Yes":

	Jointly Liable (check)	Individually Liable for the following share of damages from B, above
Philip Morris, Incorporated		\$ 6,757,426
R.J. Reynolds Tobacco Company		\$ 6,579,599
Brown & Williamson Tobacco Corp.		\$ 2,845,232
British American Tobacco Company, Ltd.		\$ 0
Loirel Tobacco Company		\$ 1,511,529
Liggett Group, Inc. and Liggett & Myers, Inc.		\$ 88,914

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0003

Claim Three: Deceptive Business Practices—Subrogation

For each defendant, has Empire proven its subrogated claim for deceptive practices under New York General Business Law Section 349 subject to a proven affirmative defense? *[If your answer below is "yes" as to any defendant, go to Question B. If your answer is "no" as to all defendants, skip to Claim Four.]*

Philip Morris Incorporated	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
R.J. Reynolds Tobacco Company	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Brown & Williamson Tobacco Corporation	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
British American Tobacco Co., Ltd.	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Lorillard Tobacco Company	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Liggett Group, Inc. and Liggett and Myers, Inc.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

B. If yes as to any defendant what damages if any has Empire proven (subject to any affirmative defense proven by defendants) from April 29, 1995 to May 1, 2001?

\$ 11,829,784

If your answer is that Empire has proved damage proceed to question C. If you answer that Empire has not proved damages skip to claim Four.

C. Indicate only one answer for each defendant as to which you answered "Yes":

	Jointly liable (check)	Individually liable for the following share of damages from B, above
Philip Morris, Incorporated		\$ 4,495,317
R.J. Reynolds Tobacco Company		\$ 4,377,020
Brown & Williamson Tobacco Corp.		\$ 1,892,765
British American Tobacco Company, Ltd.		\$ 0
Lorillard Tobacco Company		\$ 1,005,531
Liggett Group, Inc. and Liggett & Myers, Inc.		\$ 59,151

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Claim Four: RICO Section 1962(c) - Direct

For each defendant, has Empire proven its direct claim under RICO, subject to a proven affirmative defense? (If your answer below is "yes" as to any defendant, go to Question B. If your answer is "no" as to all defendants, skip to Claim Five.)

Philip Morris Incorporated	Yes	No	<input checked="" type="checkbox"/>
R.J. Reynolds Tobacco Company	Yes	No	<input checked="" type="checkbox"/>
Brown & Williamson Tobacco Corporation	Yes	No	<input checked="" type="checkbox"/>
British American Tobacco Co., Ltd.	Yes	No	<input checked="" type="checkbox"/>
Lorillard Tobacco Company	Yes	No	<input checked="" type="checkbox"/>
Liggett Group, Inc. and Liggett and Myers, Inc.	Yes	No	<input checked="" type="checkbox"/>

B. If yes as to any defendant, what damages if any has Empire proven (subject to any affirmative defense proven by defendants) from April 29, 1994 to May 1, 2001? \$ _____

If your answer is that Empire has proved damage proceed to question C. If you answer that Empire has not proved damages skip to claim Five.

C. Indicate only one answer for each defendant as to which you answered "Yes":

	Jointly liable (check)	Individually liable for the following share of damages from B, above
Philip Morris, Incorporated		\$
R.J. Reynolds Tobacco Company		\$
Brown & Williamson Tobacco Corp.		\$
British American Tobacco Company, Ltd.		\$
Lorillard Tobacco Company		\$
Liggett Group, Inc. and Liggett & Myers, Inc.		\$

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Claim Five: RICO Section 1962(a) - Subrogation

For each defendant, has Empire proven its subrogated claim under RICO, subject to a proven affirmative defense? [If your answer below is "yes" as to any defendant, go to Question B. If your answer is "no" as to all defendants, skip to the end of the form.]

Philip Morris Incorporated	Yes _____	No <input checked="" type="checkbox"/>
R.J. Reynolds Tobacco Company	Yes _____	No <input checked="" type="checkbox"/>
Brown & Williamson Tobacco Corporation	Yes _____	No <input checked="" type="checkbox"/>
British American Tobacco Co., Ltd.	Yes _____	No <input checked="" type="checkbox"/>
Lorillard Tobacco Company	Yes _____	No <input checked="" type="checkbox"/>
Liggett Group, Inc. and Liggett and Myers, Inc.	Yes _____	No <input checked="" type="checkbox"/>

- B. If yes as to any defendant, what damages if any has Empire proven (subject to any affirmative defense proven by defendants) from April 29, 1994 to May 1, 2001?

\$ _____

If your answer is that Empire has proved damage proceed to question C. If you answer that Empire has not proved damages stop here.

- C. Indicate only one answer for each defendant as to which you answered "Yes":

	Jointly liable (check)	Individually liable for the following share of damages from B, above
Philip Morris, Incorporated		\$
R.J. Reynolds Tobacco Company		\$
Brown & Williamson Tobacco Corp.		\$
British American Tobacco Company, Ltd.		\$
Lorillard Tobacco Company		\$
Liggett Group, Inc. and Liggett & Myers, Inc.		\$

Foreman

Signature of Foreperson

6/4/01

Date

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MULTI-ADDRESS FACSIMILE TRANSMISSION SHEET**ARNOLD & PORTER**

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Date: June 12, 2001

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Gary R. Lung/Shook, Hardy & Bacon	816-391-5598	816-474-6550	
Alan E. Mansfield/Stephen L. Saxl Greenberg Traurig	212-688-2449	212-801-9200	
Tom Schroeder/Womble Carlyle	336-733-8354	336-721-3691	
Dal Burton/Womble Carlyle	404-870-2403	404-888-7972	
Kelly Amanda Lea/Womble Carlyle	404-870-8185	404-872-7000	
Ursula Renninger/Womble Carlyle	336-733-8362	336-721-3699	
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Peter J. McKenna/Eric S. Sauer/Arthur H. Aizle/Douglas Flemming/Skadde Arps	212-735-3525	212-735-3000	
Paul F. Jones/Paul Stecker/Bill Bremner/Phillips, Lytle	716-852-6100	716-847-8400	
Eric Kraus/David M. Covey/James Conlon/Kimberly Penner/Sedgwick Detert	212-422-0925	212-422-0202	
Kevin J. Dinnis/Shelley Brittman/Gregory C. Reed/Sedgwick Detert	415-781-2633	415-781-7900	
Anthony Anstcombe/Sedgwick Detert	312-641-9530	877-826-3263, x 1955	

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Bruce M. Ginsberg/Andrew H. Herz/ Davis & Gilbert	212-468-4888	212-468-4800
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Patrick S. Davies/ Conington & Burling	202-662-6291	202-662-6000
Charles Miller Seward & Kissel	212-480-8421	212-574-1240
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